with the valuation of public utility properties finds its crux, and it is considerations such as these that must for a long time continue to have a decisive influence in determining the rules of law connected with such problems.

H. R.

JURISDICTION OF STATE COURTS IN SUITS COMMENCED BY RECEIVERS APPOINTED BY FEDERAL COURTS.—In *Delano, et al., Receivers of Wabash Railroad Company,* v. *Malcomson-Houghten Coal Company,* (Mich. 1914) 21 Detroit Legal News, 905, the plaintiffs had been appointed Receivers of the Wabash Railroad Company by order of the United States District Court for the District of Missouri. Their appointment had been continued in Michigan over the lines of the Wabash Railroad Company therein by ancillary proceedings taken in the District Court of the United States for the District of Michigan. The Wabash Railroad was the owner of certain leased real estate within the City of Detroit. The Receivers were anxious to obtain possession of the premises and accordingly instituted summary proceedings for the vacation of the premises by the defendant, the summary proceedings being taken under the Michigan statute before a Circuit Court Commissioner, an officer of the State Court. The plaintiff obtained judgment for restitution, and the case was appealed through the Circuit Court to the Supreme Court of the State, one assignment of error being that the State Court had no jurisdiction of the subject-matter of the action, but that the suit should have been brought in the United States Court upon the grounds stated in defendant's brief as follows:

"By taking possession, the United States Court acquired exclusive jurisdiction of the premises and this jurisdiction carried with it the exclusive right to determine all judicial questions relating to the possession of the premises, and withdraws the property from the jurisdiction of the state courts so far as the power of the latter to determine questions affecting the rights of parties and privies to the suit in which the receivers were appointed is concerned."

The defendant then cited the following cases in support of the above statement: *Farmers' Loan & Trust Co.* v. *Lake Street Elevated Railroad Company,* 177 U. S. 51; *Wabash Railroad Company* v. *Adelbert College,* 208 U. S. 38; *Murphy* v. *John Hofman Company,* 211 U. S. 562; *Palmer* v. *Texas,* 212 U. S. 118; *Sullivan* v. *Algrem,* 160 Fed 366; *City of New Orleans* v. *Howard,* 160 Fed 393; *McKay* v. *Van Kleeck,* 133 Mich. 27; *Prather Engineering Company* v. *Genesee Circuit Judge,* 149 Mich. 53; *Premier Steel Company* v. *McElwaine-Richards Company,* 144 Ind. 614.

On the part of the plaintiff, however, it was argued that Receivers appointed by the Federal Court had the same right as other citizens to enforce their rights, and the rights of the corporation of which they are Receivers, within the territorial limits of the jurisdiction of the Court from which they derived their appointment, or in any court or courts of competent jurisdiction. The writer has searched the authorities for a case precisely in point, but has met with no success. However, it is submitted that none of the cases cited by the defendant, supra, are authorities for its position,

for all those cases were either actions *against* Receivers, (in which case it is clear that the action could not lie as ousting the jurisdiction of the court)—or else the jurisdiction of another court had in some way already attached; while in the instant case the action was brought by the Receivers to assist them in acquiring possession of the premises wrongfully withheld.

The nearest approach to the case is that of *Grant* v. *Buckner,* 172 U. S. 232, where a receiver appointed by a federal court commenced suit in the state court to recover money alleged due him as receiver. In the state court the defendant pleaded a set-off against the receiver. It was objected that the state court had no jurisdiction to decide this set-off upon the ground that a set-off is in its essence and nature a suit against the plaintiff, and as the plaintiff was a receiver appointed by the federal court, that if the state court then decided the merits of the set-off, it would be tantamount to vesting the state court with jurisdiction to hear cases against a federal court receiver. The court, however, disposed of this objection, holding that the state court might determine the set-off *and that the state court had jurisdiction of the original suit brought by the receiver appointed by the federal court.*

See also: *Phoenix Ins. Co.* v. *Schultz,* (C. C. A.) 80 Fed. 337; *Hale* v. *Hardon,* 89 Fed. 283; *Chambers* v. *McDougall,* 42 Fed. 694; *Burch* v. *West,* 33 Ill. App. 359.

The Supreme Court in the instant case cites no authorities upon the proposition, but uses the following language disposing of the question, which it is submitted is eminently sound:

"No reason is given for refusing the plaintiffs the right to proceed in the courts of the state to recover possession. There is attempted no interference by the state court with the jurisdiction of the federal court over property in the hands of its receivers, or with funds in the control of the federal court. Defendant's right while it continued was a contract right, respected by the federal court and by its receivers. When this right expired, the right of the receivers to possess and deal with the property accrued. In face of an unlawful detention they needed a remedy. They have ratified the proceeding in the state court which their agent instituted. In principle, the case cannot be distinguished from an action of replevin."

W. W. M.

THE NECESSITY OF A DOMINANT ESTATE IN THE CASE OF EQUITABLE RESTRICTIONS.—In *London County Council* v. *Allen and Others,* [1914] 3 K. B. 642, the English Court of Appeals has limited the doctrine of *Tulk* v. *Moxhay.* 2 Ph. 774, in an interesting manner. The defendant's predecessor in title in the principal case had covenanted with the County Council not to erect any buildings on certain portions of his land in return for permission to lay out a certain road. The County Council, while it had a control over the land in this respect, obviously did not have an estate or interest in such land.

The possibility of the covenant running with the land was first eliminated because, as between covenantor and covenantee, it did not touch and con-